

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION**

RowVaughn Wells,

Plaintiff,

v.

The City of Memphis *et al.*,

Defendants.

Case No. 2:23-CV-02224

PLAINTIFF’S MOTION FOR LEAVE TO FILE SURREPLY

Plaintiff RowVaughn Wells, through her undersigned counsel, respectfully submits this motion for leave to file a surreply in response to the City of Memphis’s proposed supplemental reply, which the City seeks to file in its Motion for Leave to File Supplemental Reply In Support of Motion to Vacate Plaintiff’s Improper Confidentiality Designations (“Motion for Leave”) (ECF 401). In support of this motion, Plaintiff states as follows:

1. On April 28, 2025, the City filed its Motion for Leave, seeking permission to file a supplemental reply in support of its January 22, 2025 motion to vacate certain confidentiality designations of the Plaintiff’s (ECF 287). The City’s first argument is based on the text of the Court’s Protective Order (ECF 213). *See* ECF 401 ¶¶ 6-10. Its second argument draws on a recently decided Sixth Circuit decision, *Grae v. Corrections Corp. of Am.*, — F.4th —, No. 24-5839, 2025 WL 1132413 (6th Cir. Apr. 17, 2025), that had not previously been brought to the Court’s attention. *See* ECF 401 ¶¶ 11-13.

2. The City raises these arguments for the first time in its proposed supplemental reply. Plaintiff therefore has not yet had an opportunity to address these arguments, and the Court should have the benefit of hearing from both sides on these issues.

3. A surreply should be granted where a reply brief raises “new substantive arguments” that the opposing party “did not have the opportunity” to address previously. *Williams v. Bank of Fayette Cnty.*, No. 2:24-CV-02216-SHM-CGC, 2024 WL 3857340, at *1 (W.D. Tenn. Aug. 16, 2024). *See also Eng’g & Mfg. Servs., LLC v. Ashton*, 387 Fed. Appx. 575, 583 (6th Cir. 2010) (finding district court abused its discretion in denying leave to file a surreply where defendants presented “new arguments and new evidence in their reply brief”). That is exactly the circumstance here.

4. Plaintiff therefore requests permission to file a surreply no longer than five pages (the length of the City’s supplemental reply brief) within seven days of the Court granting the City’s Motion for Leave.

5. Plaintiff conferred via e-mail with Defendants regarding the relief requested in this motion. The City responded that it objects because the Court has not yet granted the City’s Motion for Leave. The City has not identified any other reasons for its opposition. Defendant Michelle Whitaker responded that she has no objection. The remaining defendants have not responded as of this filing.

WHEREFORE, for the foregoing reasons, Plaintiff respectfully requests that this Court enter an order granting Plaintiff leave to file a surreply no longer than five pages within seven days of the Court granting the City’s Motion for Leave.

Dated: April 29, 2025

Respectfully submitted,

/s/ Joshua M. Levin

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CERTIFICATE OF CONSULTATION

On April 25 and April 29, 2025, Plaintiff conferred via e-mail with all Defendants regarding the relief requested in the foregoing motion. The City responded that it objects because the Court has not yet granted the City's Motion for Leave. Defendant Michelle Whitaker responded that she has no objection. The remaining defendants have not responded as of this filing.

/s/ Joshua M. Levin